



Substitute Senate Bill No. 1097

Public Act No. 05-231

**AN ACT CONCERNING REGULATION OF
TELECOMMUNICATIONS SERVICES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 16-247f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(a) The department shall regulate the provision of telecommunications services in the state in a manner designed to foster competition and protect the public interest.

(b) Notwithstanding the provisions of section 16-19, [a telecommunications service] the following telecommunications services shall be deemed competitive services: (1) A telecommunications service offered on or before July 1, 1994, by a certified telecommunications provider and a wide area telephone service, "800" service, centrex service or digital centrex service offered by a telephone company, [shall be deemed a competitive service. Any] (2) a telecommunications service offered to business customers by a telephone company, (3) a home office service offered by a telephone company, and (4) a telecommunications service provided by a telephone company or its affiliate to a residential customer who subscribes to two or more telephone company services, including basic

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local exchange service, any vertical feature or interstate toll. Unless reclassified pursuant to this section, any other service offered by a telephone company on or before July 1, 1994, shall be deemed a noncompetitive service, provided such initial classification shall not be a factual finding that such service is noncompetitive. Notwithstanding subdivision (3) of subsection (c) of section 16-247b, prior to January 1, 2010, a telephone company shall not obtain a waiver from the department of the pricing standard set forth in subdivision (1) of subsection (c) of section 16-247b for any service reclassified as competitive pursuant to subdivision (2), (3) or (4) of this subsection.

(c) On petition, on its own motion, or in conjunction with a tariff investigation conducted pursuant to subsection (f) of this section, after notice and hearing, and within ninety days of receipt of a petition or its motion or within the time period set forth in subsection (f) of this section, as applicable, the department may reclassify a telecommunications service as competitive, emerging competitive or noncompetitive, in accordance with the degree of competition which exists for that service in the marketplace, provided (1) a competitive service shall not be reclassified as an emerging competitive service and (2) the department may extend the period (A) before the end of the ninety-day period and upon notifying all parties to the proceedings by thirty days, or (B) in accordance with the provisions of subsection (f) of this section, as applicable.

(d) In determining whether to reclassify a telecommunications service, the department shall consider:

(1) The number, size and geographic distribution of certified telecommunications providers of the service, provided the department shall not reclassify any service as competitive if such service is available only from a telephone company or an affiliate of a telephone company that is a certified telecommunications provider;

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(2) The availability of functionally equivalent services in the relevant geographic area at competitive rates, terms and conditions, including, but not limited to, services offered by certified telecommunications providers, providers of commercial mobile radio services, as defined in 47 CFR 20.3, voice over Internet protocol providers and other services provided by means of alternative technologies;

[(3) The financial viability of each company providing a functionally equivalent service in the relevant market;]

[(4)] (3) The existence of barriers to entry into, or exit from, the relevant market;

[(5) Other indicators of market power which the department deems relevant, which may include, but not be limited to, market penetration and the extent to which the provider of the service can sustain the price for the service above the cost to the company of providing that service;

(6) The extent to which other telecommunications companies must rely upon the service to provide their telecommunications services;]

[(7)] (4) Other factors that may affect competition; and

[(8)] (5) Other factors that may affect the public interest.

(e) Each certified telecommunications provider and each telephone company shall file with the department a new or amended tariff for each competitive or emerging competitive intrastate telecommunications service authorized pursuant to section 16-247c. A tariff for a competitive service shall be effective on five days' written notice to the department. A tariff for an emerging competitive service shall be effective on twenty-one days' written notice to the department. A tariff filing for a competitive or emerging competitive service shall

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include (1) rates and charges which may consist of a maximum rate and a minimum rate, (2) applicable terms and conditions, (3) a statement of how the tariff will benefit the public interest, and (4) any additional information required by the department. A telephone company filing a tariff pursuant to this section shall include in said tariff filing the information set forth in subdivisions (1) to (4), inclusive, of this subsection, a complete explanation of how the company is complying with the provisions of section 16-247b and, in a tariff filing which declares a new service to be competitive or emerging competitive, a statement addressing the considerations set forth in subsection (d) of this section. If the department approves a tariff which consists of a minimum rate and a maximum rate, the certified telecommunications provider or telephone company may amend its rates upon five days' written notice to the department and any notice to customers which the department may require, provided the amended rates are not greater than the approved maximum rate and not less than the approved minimum rate. A promotional offering for a previously approved competitive or emerging competitive tariffed service or a service deemed competitive pursuant to section 16-247f shall be effective on three business days' written notice to the department.

(f) On petition or its own motion, the department may investigate a tariff or any portion of a tariff, which investigation may include a hearing. The department may suspend a tariff or any portion of a tariff during such investigation. The investigation may include, but is not limited to, an inquiry to determine whether the tariff is predatory, deceptive, anticompetitive or violates the pricing standard set forth in subdivision (1) of subsection (c) of section 16-247b. Not later than seventy-five days after the effective date of the tariff, unless the party filing the tariff, all statutory parties to the proceeding and the department agree to a specific extension of time, the department shall issue its decision, including whether to approve, modify or deny the

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tariff. If the department determines that a tariff filed as a new service is, in fact, a reclassification of an existing service, the department shall review the tariff filing as a petition for reclassification in accordance with the provisions of subsection (c) of this section.

(g) The provisions of this section shall not prohibit the department from ordering different tariff filing procedures or effective dates for an emerging competitive service, pursuant to a plan for an alternative form of regulation of a telephone company approved by the department in accordance with the provisions of section 16-247k.

Sec. 2. Subsection (a) of section 16-247a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(a) Due to the following: Affordable, high quality telecommunications services that meet the needs of individuals and businesses in the state are necessary and vital to the welfare and development of our society; the efficient provision of modern telecommunications services by multiple providers will promote economic development in the state; expanded employment opportunities for residents of the state in the provision of telecommunications services benefit the society and economy of the state; and advanced telecommunications services enhance the delivery of services by public and not-for-profit institutions, it is, therefore, the goal of the state to (1) ensure the universal availability and accessibility of high quality, affordable telecommunications services to all residents and businesses in the state, (2) promote the development of effective competition as a means of providing customers with the widest possible choice of services, (3) utilize forms of regulation commensurate with the level of competition in the relevant telecommunications service market, (4) facilitate the efficient development and deployment of an advanced telecommunications infrastructure, including open networks with maximum

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interoperability and interconnectivity, (5) encourage shared use of existing facilities and cooperative development of new facilities where legally possible, and technically and economically feasible, and (6) ensure that providers of telecommunications services in the state provide high quality customer service and high quality technical service. The department shall implement the provisions of this section, sections 16-1, 16-18a, 16-19, 16-19e, 16-22, 16-247b, 16-247c, 16-247e to 16-247i, inclusive, and 16-247k and subsection (e) of section 16-331 in accordance with these goals. The department may enter into memoranda of understanding with a third party in order to foster the goals of this section.

Sec. 3. Subsection (a) of section 16-247b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(a) On petition or its own motion, the department shall initiate a proceeding to unbundle a telephone company's network, services and functions that are used to provide telecommunications services and which the department determines, after notice and hearing, are in the public interest, are consistent with federal law and are technically feasible of being tariffed and offered separately or in combinations. Any telecommunications services, functions and unbundled network elements and any combination thereof shall be offered under tariff at rates, terms and conditions that do not unreasonably discriminate among actual and potential users and actual and potential providers of such local network services. Notwithstanding this subsection, any hybrid fiber coaxial facilities or hybrid fiber coaxial networks that are owned by a telephone company are not subject to unbundling unless specifically ordered by the Federal Communications Commission.

Sec. 4. Section 16-247i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

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Not later than January 1, 1995, and annually thereafter, the department shall submit a report to the General Assembly on the status of telecommunications service and regulation in the state of Connecticut. Such report shall include: (1) An analysis of universal service and any changes therein; (2) an analysis of the impact, if any, of competition in telecommunications markets on the work force of the state and employment opportunities in the telecommunications industry in the state; (3) an analysis of the level of regulation which the public interest requires; (4) the status of implementing the provisions of sections 16-247a to 16-247c, inclusive, 16-247e to 16-247h, inclusive, 16-247k and this section, including achieving each of the objectives of the goals set forth in section 16-247a; (5) the status of the development of competition for all telecommunications services; [and] (6) the status of the deployment of telecommunications infrastructure in the state; and (7) the status of the implementation of public act 05-231.

Vetoed July 11, 2005